REMARKS

Applicant hereby replies to the Office Action dated July 9, 2004 within the shortened three month statutory period for response. Claims 1-76 were pending in the application and the Examiner rejects claims 1-76. Support for the amendments may be found in the originally filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

The Examiner rejects claims 23-44 under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter because a "system" may be different statutory classes of invention. Applicant respectfully traverses these rejections. However, to expedite prosecution of this case, Applicant states that system claims 23-44 belong to the apparatus statutory class.

The Examiner rejects claims 1-22 and 45-76 under 35 U.S.C. 101 as non-statutory because the method claims as presented do not claim a technological basis. Applicant respectfully traverses these rejections. As amended, independent claims 1 and 45 clearly provide a technological basis for the invention by including a computer implemented method wherein many of the steps are performed "via a host computer". Applicant asserts that claims 2-22 and 46-76 also claim a technological basis because these claims variously depend from the amended independent claims1 and 45.

The Examiner rejects claims 1-76 under 35 U.S.C. 103(a) as being unpatentable over King (U.S. Patent Number 6,148,293) in view of Sandretto (U.S. Patent Number 5,812,988). Specifically, the Examiner asserts that King discloses a method for enabling investors to participate in market activity and preserve principal. The Examiner correctly asserts that King does not disclose the step of "allowing the purchaser to select a return-generating model from at

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least two different return generating models". However, the Examiner further assets that this step is disclosed by Sandretto. Applicant respectfully traverses these rejections.

Sandretto is limited to a method and apparatus for estimating asset values under varying market conditions. The models as disclosed by Sandretto comprise pre-determined scenarios which are used in computing estimated financial statements, estimated cash flows, and inflation-adjusted cash flows for two or more assets. Specifically, Sandretto is limited to an asset model, economic model, asset cash flow model, discounting model, simulated return model and a risk-return type model. The various models of Sandretto are limited to performing a simulation to predict future behavior, wherein the simulation may help an investor to better understand how market conditions may effect their asset and investment values.
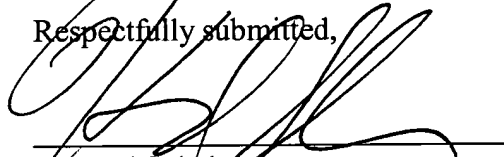
The models, as disclosed in Sandretto, do not guarantee or even provide an assurance that an investment value will be increased over the duration of the investment, nor do they guarantee against loss of an asset's principle, therefore the Sandretto models do not represent a return-generating configuration which is applied to an asset. For example, using the Sandretto system, an investor may choose an investment instrument based on it's performance in a simulation where varying models were applied to effect the simulation outcome. However, the selection of the investment instrument does not directly effect the terms of the instrument and therefore cannot provide assurance that the instrument will appreciate or even maintain it's face value in a real-world economic environment. Sandretto does not disclose applying a model to an investment instrument to effect the terms of the investment. As such, Sandretto does not disclose or suggest "allowing, via a host computer, said purchaser of said at least one investment instrument to select a return-generating model for said investment instrument..." or "calculating, via a host computer, the return earned by said investment instrument according to said return-

generating model selected by said purchaser" (emphasis added) as recited in independent claims 1, 23, 45 and 54.

All remaining claims variously depend from independent claims 1, 23, 45 and 54, so Applicant asserts that claims 1, 23, 45 and 54 are differentiated from the prior art for at least the reasons set forth above for differentiating the independent claims from the prior art.

In view of the above remarks and amendments, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as its invention and are allowable over the cited prior art. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicant authorizes and respectfully requests that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: _____ September 15, 2004 _____

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